

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

UNITED STATES OF AMERICA

VS.

CAUSE NO. 3:22-cr-109-DPJ-FKB-1

TERRY GRASSAREE

DEFENDANT

MOTION TO SUPPRESS

COMES NOW, Terry Grassaree (“Grassaree”), defendant, and files this MOTION TO SUPPRESS and in support would show the court the following:

1. Grassaree is charged with a Travel Act violation under 18 U. S. C. § 1952(a)(3) by using the internet and a cell phone to facilitate a bribery scheme under state law, i. e. § 97-11-13 of the Mississippi Code of 1972. Presumably, this charge relates to alleged requests to a female inmate to send him nude electronic images of herself via “Facebook Messenger”. For doing so, she would allegedly receive more favorable treatment than other inmates, including her continued use of a cell phone that she possessed in the jail. He is also charged with making a false statement during the investigation.

2. The Government has furnished Grassaree 41,853 electronic pages of discovery and several recordings. All references will designate the pages of the discovery as the Government has done, i.e., “GOV-000001” to “GOV=041853”. Copies will not be attached as Exhibits, but will be furnished *in camera* by sealed Exhibit, at any hearing, or as the court directs.

3. In late December 2019 and early January 2020, a search warrant was sought from a state court judge returned certain Facebook account information for accounts of Grassaree.

These are designated as “Facebook Business Records” and make up the some of the bulk of the discovery produced.

4. Appearing at GOV 000392 is the “Underlying Facts and Circumstances” annexed to the Application for the Search Warrant issued by the Circuit Court of Noxubee County for the Facebook records of Grassaree. An Exhibit, GOV-000393, is a picture of what appears to be a screenshot that the affiant Johnson represented to have been received anonymously by him and later authenticated to him by the female inmate XX, as having been received by her in FB Messenger from Grassaree. At page GOV-000026 through page GOV-000094, there are what appear to be two sets of pages of the Facebook Business record of Grassaree that were produced and returned under the warrant. These pages purport to evidence threads of Facebook messages between Grassaree and the female inmate. The same pages appear again in the discovery at GOV-001361 to GOV-001390 and GOV-002530 to GOV-002559.

5. Certain statements appear in the Johnson Affidavit which are materially misleading at the least, and at best false. Johnson stated that in an interview by him on 10/23/2019, a female inmate “XX” advised “... that Grassaree was aware of her being in possession of cell phones and tobacco...” in his jail. Grassaree would request nude pictures and videos of XX to be sent by her to [him through Facebook messenger], ...thereby “... allowing her to keep the cell phone “. Johnson stated the Exhibit (screenshot) was received by him in March 2019 anonymously, as the donor refused to “release their identity”. He advised that XX “later” authenticated the screenshot as being a conversation she had with Grassaree through Facebook messenger.

6. However, contrary to these representations, the exhibited screenshot has a clear

provenance. The false statement concerning anonymity raises concern over the Exhibit's authenticity and a dubiousness over its content. Further, although another investigator from the District Attorney's Office interviewed XX on 11/14/19, nothing in the transcribed conversation of either interview directly authenticates or corroborates the Exhibit. Finally, there are no further documented interrogations of XX disclosed in discovery where she corroborates or authenticates the Exhibit to Johnson or any other person before the applicable 12/13/19 or 1/8/20 dates that variously appear as the date the search warrant issued.

7. Removing the misrepresentations or false statements from the affidavit reduces it to an unsworn statement of fact by XX, repeated as hearsay by Johnson. Thus, no probable cause existed for issuance of the warrant.

Wherefore, premises considered, defendant prays for suppression of the matter produced pursuant to the search warrant and all fruits thereof, and for such other or further relief the court may deem proper in the premises.

RESPECTFULLY SUBMITTED, this the 10th day of July 2023.

TERRY GRASSAREE,
DEFENDANT
BY: S/GARY STREET GOODWIN
HIS ATTORNEY

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CERTIFICATE OF SERVICE

I, the undersigned, Gary Street Goodwin, attorney of record for DEFENDANT, do hereby certify that I have electronically filed the foregoing document with the Clerk of this Court using the ECF system which will send notification of such filing to counsel who have electronically registered with the Court in this cause.

So certified, this the 10th day of July 2023.

s/ GARY STREET GOODWIN